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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION



OF: MÖHWALD ET AL CONFIRMATION NO.: 8978

SERIAL No. 09/674,541 GROUP ART UNIT: 1745

FILED: NOVEMBER 02, 2000 EXAMINER:

FOR: COMPOSITION SUITABLE FOR ELECTROCHEMICAL CELL

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Alexandria, Va 22313-1450, on:

March 1, 2004

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Person Making Deposit

Herbert B. Keil

Signature

March 1, 2004

Date of Signature

Honorable Commissioner
for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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REPLY UNDER 37 C.F.R. §1.111

Sir:

In reply to the Office action of October 28, 2003, it is respectfully requested that the following Request for Reconsideration and the attached be entered and considered:

REQUEST FOR RECONSIDERATION

Claims 14 and 18 to 28 as set forth in Appendix II of applicants' reply dated April 04, 2003 (date of the Certificate of Mailing) are currently pending.

Claim 14, 20 to 22, 26 and 28 stand rejected under 35 U.S.C. §102(a) as being anticipated by the disclosure of Bauer et al. (WO 99/19917).

Applicants' herewith enclose a verified translation of the priority application DE 198 19 752.7, filed on May 04, 1998¹⁾. Accordingly, the present application is entitled to the May 04, 1998, date as the earliest date.

The disclosure of **Bauer et al.** was published on April 22, 1999²⁾, and therefore does not qualify as prior art within the provisions of Section 102. The same applies to the Section 371 U.S. application corresponding to **WO 99/19917** which was filed on April 06, 2000, and was assigned **Serial No. 09/529,028**. Withdrawal of the rejection under Section 102(a) based on the disclosure of **Bauer et al.** is therefore respectfully solicited.

Claims 14 and 18 to 28 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable in light of claims 1 to 9 of **Möhwald et al.**'s U.S. patent No. **6,475,663**.

The pertinent date of the **Möhwald et al.** patent for the determination of the patent term is the PCT filing date, namely August 06, 1999, and the pertinent date for determining the term of a patent granted on the present application is May 04, 1999. Applicants have therefore submitted a Terminal Disclaimer in **Möhwald et al.**'s U.S. patent No. **6,475,663**. A copy of the Terminal Disclaimer is herewith enclosed for the Examiner's convenience.

Withdrawal of the obviousness-type double patenting rejection is therefore respectfully solicited.

In light of the foregoing and the attached, the application should now be in condition for allowance. Early action is appreciated.

REQUEST FOR EXTENSION OF TIME:

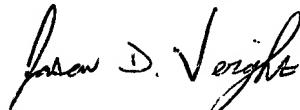
It is respectfully requested that a one month extension of time be granted in this case. A check for the \$110.00 fee is attached.

- 1) A copy of the Certified Copy of the priority application was forwarded by the International Bureau under the PCT as acknowledged in the official Notification of Acceptance dated February 14, 2001.
- 2) Note the date indicated in No. (43) on the face of **WO 99/19917**.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF



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Encl.: verified translation of DE 198 19 752.7
copy of Terminal Disclaimer filed in **Möhwald et al.** (US 6,475,663)

JDV/BAS